IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 515 of 2005

Between:

Kishan Rao, S/o. Raghavender Rao,
Uligundam Village, R/o. Uligundam, Mandal : Damargidda, Mahaboobnagar District.

..... PETITIONER

AND

1 The District Collector, Panchayat Wing, Mahabubnagar District, Mahabubnagar.
2 The District Panchayat Officer, Mahabubnagar District, Mahabubnagar.
3 The Divisional Panchayat Officer, Narayanpet Division, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an writ or order particularly Writ in the nature of Certiorary, calling for the records of the respondent No. 1 in passing the impugned orders and Notification in proceedings No.A1/1212/2004, dt. 4th Jan, 2005 and set aside the same being illegal, arbitrary, malafide and high handed on the part of the respondent No. 1 and pass any other appropriate orders in the circumstances of the case in the interests of justice

Counsel for the Petitioner:MR.BAJRANG SINGH THAKUR

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

ORDER:

The present writ petition is filed questioning the proceedings dated 6-10-2004 removing the petitioner from the post of Sarpanch under section 249(1) of the A.P.Panchayat Raj Act, 1994 (for short the Act).

Though several contentions were raised in the writ petition, learned Government Pleader for Panchayat Raj & Rural Development submitted that against the impugned orders passed under section 249 (1) of the Act, an alternative remedy of appeal to the Government is provided under section 249 (7) of the Act and without availing such remedy, the petitioner has rushed to this Court by filing the present writ petition, which is not maintainable.

Heard the learned counsel for petitioner and learned Government Pleader for Panchayat Raj. Both counsel agreed for disposal of the writ petition at the stage of admission.

Section 249 (7) of the Act reads as under;

> *"Any person aggrieved by an order of removal passed by the District Collector under sub section (1) or sub section (4), may within 30 days from the date of the order prefer an appeal to the Government and the Government may pending a decision on such appeal, stay the order appealed against."*

Since an alternative remedy of appeal is provided under the Act as against the impugned order, without expressing any opinion on the merits of the matter, I deem it appropriate to permit the petitioner to file an appeal, as provided under section 249 (7) of A.P.Panchayat Raj Act, together with stay application, within a period of six weeks from today. Till such time, status quo existing as on today shall be maintained. On filing such a Appeal, the Appellate Authority shall consider the same and pass appropriate orders in accordance with law.

Subject to above observation, the writ petition is dismissed at the admission stage.

_____ **N.V.RAMANA,J**

24th January,2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Panchayat Wing, Mahabubnagar District, Mahabubnagar.
2 The District Panchayat Officer, Mahabubnagar District, Mahabubnagar.
3 The Divisional Panchayat Officer, Narayanpet Division, Mahabubnagar District.

4.2CCs to Government Pleader for Revenue, High Court buildings, Hyderabad (OUT)

5.2CD copies